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Attorney for Maurice Quinn

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	
	:	NO. 19-350
MAURICE QUINN	:	

MOTION FOR EXTENSION OF TIME
TO EXTEND THE TIME FOR FILING NOTICE OF APPEAL

**TO THE HONORABLE JAN E. DUBOIS, JUDGE OF THE UNITED
STATESDISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA:**

Maurice Quinn, by and through his attorney, Paul J. Hetznecker, Esquire,
files this Motion for Extension of Time to Extend the Time for Filing Notice of
Appeal and submits the following in support thereof:

1. Defendant, Maurice Quinn, was sentenced by Your Honor on May 26,
2021 and the Judgment of Conviction was issued on May 28, 2021. Pursuant to
Federal Rules of Appellate Procedure Rule 4(b)(1)(A), a defendant's Notice of
Appeal must be filed in the District Court within fourteen (14) days after the (i) the

entry of either the Judgment or Order being appealed. However, pursuant to Federal Rule 4(b)(4) a defendant may file a Motion for Extension of Time upon finding of excusable neglect or good cause. The District Court may, before or after the time has expired, with or without motion or notice extend the time to file a Notice of Appeal not to exceed thirty (30) days from the expiration of the time otherwise prescribed under Rule 4(b).

2. In this case Counsel mistakenly calendared the Notice of Appeal for thirty (30) days as opposed to the fourteen (14) days as prescribed under Federal Rule of Appellate Procedure Rule 4. The case was mistakenly calendared applying Commonwealth of Pennsylvania's Appellate Rule of Procedure which provides for thirty (30) days to file a Notice of Appeal.

3. On June 21, 2021 defendant filed a Notice of Appeal with the District Court indicating the desire to pursue an appeal to the Third Circuit Court of Appeals. Some courts have treated late filed notice of appeal as a motion for extension of time. United States v. Vastola, 899 F.2d 211 (3rd Cir. 1990), vacated on other grounds, 497 U.S. 1001 (1990). In addition, courts have construed this provision to mean that in a criminal case a notice of appeal filed within thirty (30) days after the expiration of the filing period functions as a request for an extension of time.

4. In this case, the Notice of Appeal was filed in an untimely manner twelve (12) days after the fourteen (14) day period to file the Notice of Appeal but less than thirty (30) days after the Judgment of Conviction was entered. This constitutes excludable neglect.

5. The delay in filing the appeal was not caused by the defendant and therefore, he should not lose the opportunity for a direct appeal as a result of his Counsel's excusable neglect.

WHEREFORE, counsel respectfully requests that this Honorable Court grant this this Motion for Extension of Time to Extend the Time for Filing Notice of Appeal and extend the time period for filing the appeal to June 21, 2021, the date upon which counsel filed the appeal on behalf of the defendant, Maurice Quinn.

Respectfully submitted,

/s/ Paul J. Hetznecker, Esquire

Paul Hetznecker, Esquire

Attorney for Defendant, Maurice Quinn

Date: June 23, 2021

CERTIFICATE OF SERVICE

I, Paul J. Hetznecker, hereby certify that on the date below a true and correct copy of the _____ was served on the person below via the Court's electronic filing system (ecf):

Robert E. Eckert, Esquire
Assistant United States Attorney
United States Attorney's Office
615 Chestnut Street, 12th Floor
Philadelphia, PA 19106

/s/ Paul J. Hetznecker, Esquire
Paul Hetznecker, Esquire
Attorney for Defendant, Maurice Quinn

Date: **June 23, 2021**